

AMENDED IN ASSEMBLY AUGUST 18, 2014

SENATE BILL

No. 1083

Introduced by Senator Pavley

February 19, 2014

An act to amend Section 3502.3 of the Business and Professions Code, and to amend Section 2708 of the Unemployment Insurance Code, relating to physician assistants.

LEGISLATIVE COUNSEL'S DIGEST

SB 1083, as amended, Pavley. Physician assistants: disability certifications.

The Physician Assistant Practice Act authorizes a delegation of services agreement to authorize a physician assistant to engage in specified activities.

Existing law requires a claimant for unemployment compensation disability benefits to establish medical eligibility for each uninterrupted period of disability by filing a first claim for disability benefits supported by the certificate of a treating physician or practitioner that establishes the sickness, injury, or pregnancy of the employee, or the condition of the family member that warrants the care of the employee. Existing law defines the term "practitioner" to mean a person duly licensed or certified in California acting within the scope of his or her license or certification who is a dentist, podiatrist, or a nurse practitioner, as prescribed.

This bill would amend the Physician Assistant Practice Act to authorize a physician assistant to certify disability, after performance of a physical examination by the physician assistant under the supervision of a physician and surgeon consistent with the act. The bill would correspondingly expand the definition of practitioner to include

a physician assistant. *This bill would require the Employment Development Department to implement these provisions on or before January 1, 2017.*

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 3502.3 of the Business and Professions
2 Code is amended to read:

3 3502.3. (a) Notwithstanding any other provision of law, in
4 addition to any other practices that meet the general criteria set
5 forth in this chapter or the Medical Board of California's
6 regulations for inclusion in a delegation of services agreement, a
7 delegation of services agreement may authorize a physician
8 assistant to do any of the following:

9 (1) Order durable medical equipment, subject to any limitations
10 set forth in Section 3502 or the delegation of services agreement.
11 Notwithstanding that authority, nothing in this paragraph shall
12 operate to limit the ability of a third-party payer to require prior
13 approval.

14 (2) For individuals receiving home health services or personal
15 care services, after consultation with the supervising physician,
16 approve, sign, modify, or add to a plan of treatment or plan of care.

17 (3) After performance of a physical examination by the
18 physician assistant under the supervision of a physician and
19 surgeon consistent with this chapter, certify disability pursuant to
20 Section 2708 of the Unemployment Insurance Code. *The*
21 *Employment Development Department shall implement this*
22 *paragraph on or before January 1, 2017.*

23 (b) Nothing in this section shall be construed to affect the
24 validity of any delegation of services agreement in effect prior to
25 the enactment of this section or those adopted subsequent to
26 enactment.

27 SEC. 2. Section 2708 of the Unemployment Insurance Code,
28 as added by Section 2 of Chapter 350 of the Statutes of 2013, is
29 amended to read:

30 2708. (a) (1) In accordance with the director's authorized
31 regulations, and except as provided in subdivision (c) and Sections
32 2708.1 and 2709, a claimant shall establish medical eligibility for

1 each uninterrupted period of disability by filing a first claim for
2 disability benefits supported by the certificate of a treating
3 physician or practitioner that establishes the sickness, injury, or
4 pregnancy of the employee, or the condition of the family member
5 that warrants the care of the employee. For subsequent periods of
6 uninterrupted disability after the period covered by the initial
7 certificate or any preceding continued claim, a claimant shall file
8 a continued claim for those benefits supported by the certificate
9 of a treating physician or practitioner. A certificate filed to establish
10 medical eligibility for the employee's own sickness, injury, or
11 pregnancy shall contain a diagnosis and diagnostic code prescribed
12 in the International Classification of Diseases, or, if no diagnosis
13 has yet been obtained, a detailed statement of symptoms.

14 (2) A certificate filed to establish medical eligibility of the
15 employee's own sickness, injury, or pregnancy shall also contain
16 a statement of medical facts, including secondary diagnoses when
17 applicable, within the physician's or practitioner's knowledge,
18 based on a physical examination and a documented medical history
19 of the claimant by the physician or practitioner, indicating the
20 physician's or practitioner's conclusion as to the claimant's
21 disability, and a statement of the physician's or practitioner's
22 opinion as to the expected duration of the disability.

23 (b) An employee shall be required to file a certificate to establish
24 eligibility when taking leave to care for a family member with a
25 serious health condition. The certificate shall be developed by the
26 department. In order to establish medical eligibility of the serious
27 health condition of the family member that warrants the care of
28 the employee, the information shall be within the physician's or
29 practitioner's knowledge and shall be based on a physical
30 examination and documented medical history of the family member
31 and shall contain all of the following:

32 (1) A diagnosis and diagnostic code prescribed in the
33 International Classification of Diseases, or, if no diagnosis has yet
34 been obtained, a detailed statement of symptoms.

35 (2) The date, if known, on which the condition commenced.

36 (3) The probable duration of the condition.

37 (4) An estimate of the amount of time that the physician or
38 practitioner believes the employee needs to care for the child,
39 parent, grandparent, grandchild, sibling, spouse, or domestic
40 partner.

1 (5) (A) A statement that the serious health condition warrants
2 the participation of the employee to provide care for his or her
3 child, parent, grandparent, grandchild, sibling, spouse, or domestic
4 partner.

5 (B) “Warrants the participation of the employee” includes, but
6 is not limited to, providing psychological comfort, and arranging
7 “third party” care for the child, parent, grandparent, grandchild,
8 sibling, spouse, or domestic partner, as well as directly providing,
9 or participating in, the medical care.

10 (c) The department shall develop a certification form for bonding
11 that is separate and distinct from the certificate required in
12 subdivision (a) for an employee taking leave to bond with a minor
13 child within the first year of the child’s birth or placement in
14 connection with foster care or adoption.

15 (d) The first and any continuing claim of an individual who
16 obtains care and treatment outside this state shall be supported by
17 a certificate of a treating physician or practitioner duly licensed
18 or certified by the state or foreign country in which the claimant
19 is receiving the care and treatment. If a physician or practitioner
20 licensed by and practicing in a foreign country is under
21 investigation by the department for filing false claims and the
22 department does not have legal remedies to conduct a criminal
23 investigation or prosecution in that country, the department may
24 suspend the processing of all further certifications until the
25 physician or practitioner fully cooperates, and continues to
26 cooperate, with the investigation. A physician or practitioner
27 licensed by, and practicing in, a foreign country who has been
28 convicted of filing false claims with the department may not file
29 a certificate in support of a claim for disability benefits for a period
30 of five years.

31 (e) For purposes of this part:

32 (1) “Physician” has the same meaning as defined in Section
33 3209.3 of the Labor Code.

34 (2) (A) “Practitioner” means a person duly licensed or certified
35 in California acting within the scope of his or her license or
36 certification who is a dentist, podiatrist, ~~physician assistant who~~
37 ~~has performed a physical examination under the supervision of a~~
38 ~~physician and surgeon~~, or a nurse practitioner, and in the case of
39 a nurse practitioner, after performance of a physical examination
40 by a nurse practitioner and collaboration with a physician and

1 surgeon, or as to normal pregnancy or childbirth, a midwife or
2 nurse midwife, or nurse practitioner.

3 (B) “Practitioner” also means a physician assistant who has
4 performed a physical examination under the supervision of a
5 physician and surgeon. Funds appropriated to cover the costs
6 required to implement this subparagraph shall come from the
7 Unemployment Compensation Disability Fund. This subparagraph
8 shall be implemented on or before January 1, 2017.

9 (f) For a claimant who is hospitalized in or under the authority
10 of a county hospital in this state, a certificate of initial and
11 continuing medical disability, if any, shall satisfy the requirements
12 of this section if the disability is shown by the claimant’s hospital
13 chart, and the certificate is signed by the hospital’s registrar. For
14 a claimant hospitalized in or under the care of a medical facility
15 of the United States government, a certificate of initial and
16 continuing medical disability, if any, shall satisfy the requirements
17 of this section if the disability is shown by the claimant’s hospital
18 chart, and the certificate is signed by a medical officer of the
19 facility duly authorized to do so.

20 (g) Nothing in this section shall be construed to preclude the
21 department from requesting additional medical evidence to
22 supplement the first or any continued claim if the additional
23 evidence can be procured without additional cost to the claimant.
24 The department may require that the additional evidence include
25 any or all of the following:

- 26 (1) Identification of diagnoses.
27 (2) Identification of symptoms.
28 (3) A statement setting forth the facts of the claimant’s disability.
29 The statement shall be completed by any of the following
30 individuals:

- 31 (A) The physician or practitioner treating the claimant.
32 (B) The registrar, authorized medical officer, or other duly
33 authorized official of the hospital or health facility treating the
34 claimant.
35 (C) An examining physician or other representative of the
36 department.

37 (h) This section shall become operative on July 1, 2014.

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